

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAOQI HAUTER,
A# 43 549 912

Petitioner/Plaintiff

vs.

Andrea Quarantillo, USCIS District Director,
USCIS Director, DHS Secretary and
Office of the General Counsel,

Respondent/Defendant

Docket No. 07-cv-08618

PETITION FOR HEARING ON NATURALIZATION APPLICATION

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PETITION FOR A HEARING ON A NATURALIZATION APPLICATION

Petitioner, SHAOQI HAUTER, by and through his undersigned counsel, hereby petitions this Honorable Court to issue an Order to the USCIS to immediately adjudicate the petition or, in the alternative to adjudicate this Naturalization Application by this Court. According to Section 336(b), U.S.C. 1447(b), specifically provides for judicial review for a stalled naturalization petition in these circumstances. It states as follows:

If there is a failure to make a determination under section 1446 of this title before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.

EXHAUSTION

1. Petitioner has exhausted his remedies by performing seven (7) separate Inquiries and his only remedy is by this judicial action.

JURISDICTION

2. This Court has jurisdiction over this action pursuant to the aforementioned INA 336(b) wherein it specifically states that the United States district court has jurisdiction when there is a failure to make a determination within 120 days of the interview.

VENUE

3. Venue properly lies within the Southern District of New York, the judicial district where Petitioner lives, filed his Naturalization Application and where his USCIS Naturalization Interview took place.

PARTIES

4. Petitioner, SHAOQI HAUTER, a native and citizen of Yemen, born on 02/05/1975, Alien Registration Number 43 549 912 resides at 1120 Southern Boulevard, Bronx, NY 10459.
5. Respondent, Andrea Quarantilla, is sued in her official capacity. She is the New York District Director of the USCIS. As such, she is the Attorney General's designate for the New York District, charged with the administration and enforcement of all the functions, powers and duties of the USCIS.

FACTS OF CASE

This N-400 Naturalization Application for Mr. SHAOQI HAUTER was received by the US Immigration & Naturalization Office prior to 02/03/2006. The Interview was conducted by DAO Wengenroth at 26 Federal Plaza, 7th Floor, New York, NY on 02/03/2006. Applicant passed the tests of English, US History and Government and was told by DAO Wengenroth that the only item pending were the security checks. As of 09/27/07, there still has not been any decision made on this case.

The applicant has never been arrested, the interview took place approximately sixteen (16) months ago and applicant has performed seven (7) Inquiries. We have provided proofs of these Inquiries which dates are:

1. May 19, 2006,
2. July 10, 2006.
3. November 21, 2006
4. January 4, 2007
5. April 6, 2007

6. May 1, 2007 (also submitted rough draft of this petition as a warning to the Naturalization Section)
7. June 14, 2007 (also submitted rough draft of this petition)

On 06/14/07 I was told by the Inquiry Officer on the 7th Floor that security clearance checks were still pending and that there is nothing we can do but just wait. Meanwhile, the Applicant's wife and children are still back in his home country of Yemen waiting for their I-130 immigration applications to become current which is still several years away.

REQUEST FOR RELIEF

Petitioner hereby respectfully requests that this Court find the wrongful actions and/or inactions of Respondent to be in violation of INA Section 336(b), 8 U.S.C. 1447(b) and regulations hereunder in that Respondent has failed to make a decision on this case within 120 days of the Naturalization Interview.

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Accept and maintain continuing jurisdiction in the action;
2. Direct Respondent to immediately adjudicate this petition or, in the alternative to adjudicate this Naturalization Application by this Court;
3. Provide such other relief as the Court may deem just and proper.

Dated: Yonkers, New York
September 27, 2007

Respectfully submitted,
Law Office of Donald H. London

By: _____
Donald H. London (DL-1930)
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984 North Broadway, Suite 401
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VERIFICATION

DONALD H. LONDON, under penalty of perjury, states that he is the attorney for the Petitioner/Plaintiff in the foregoing Petition For Hearing On Naturalization Application, and he affirms the truth of the contents thereof by information and belief, and believes the same to be true, and he further states that the sources of his information and belief are documents provided to him by the Petitioner and his own conversations and personal dealings with representatives of the Department of Homeland Security, Bureau of Citizenship & Immigration Services located at 26 Federal Plaza, New York, NY 10279.

Dated: Yonkers, New York
September 27, 2007

Donald H. London, Esq. (DL-1930)
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